



GAIL FARBER, Director

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331


<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

38 August 4, 2015


PATRICK OZAWA
ACTING EXECUTIVE OFFICER

August 04, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**ADOPT, ADVERTISE, AND AWARD CONSTRUCTION CONTRACT
TUJUNGA WASH – TUJUNGA SPREADING GROUNDS
ENHANCEMENT PROJECT
IN THE CITY OF LOS ANGELES
(SUPERVISORIAL DISTRICT 3)
(3 VOTES)**

SUBJECT

This action is to approve and advertise the Tujunga Wash – Tujunga Spreading Grounds Enhancement Project in the City of Los Angeles, adopt the plans and specifications, authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to award and execute a consultant services agreement for the preparation of a baseline construction schedule, a storm water pollution prevention plan, and a health and safety plan for a fee not to exceed \$15,000, funded by existing project funds; and a construction contract with the responsible contractor with the lowest responsive bid; deliver the project; authorize the Chief Engineer or her designee to enter into a cooperative agreement with the Vulcan Materials Company; and delegate certain responsibilities to the Chief Engineer or her designee to carry out this project.

IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:

1. Approve and advertise the project and adopt the plans and specifications that are on file in the Construction Division of the Department of Public Works for the Tujunga Wash – Tujunga Spreading Grounds Enhancement Project, at an estimated construction contract cost between \$12,000,000 and \$17,000,000.
2. Instruct the Acting Executive Officer of the Board of Supervisors to advertise for bids in

accordance with the Instruction Sheet for Publishing Legal Advertisement, and which are to be received before 11 a.m. on September 15, 2015, in accordance with the Notice Inviting Bids.

3. Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to award and execute a consultant services agreement with the responsible contractor with the lowest responsive bid to prepare a baseline construction schedule, a stormwater pollution prevention plan, and a health and safety plan for a fee not to exceed \$15,000, funded by existing project funds.
4. Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to determine whether the bid of the apparent responsible contractor with the lowest apparent responsive bid is, in fact, responsive and, if not responsive, to determine which apparent responsible contractor submitted the lowest responsive bid.
5. Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to award and execute a construction contract with the responsible contractor with the lowest responsive bid within the estimated cost range and deliver the project.
6. Authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to enter into a cooperative agreement with the Vulcan Materials Company for delivery of excavated material from the project to Vulcan Materials Company.
7. Delegate to the Chief Engineer of the Los Angeles County Flood Control District or her designee the following authority in connection with this contract: (1) approve and execute change orders within the same monetary limits delegated to the Director of Public Works under Section 2.18.050 of the Los Angeles County Code relative to the construction of County buildings; (2) allow substitution of subcontractors and relief of bidders upon demonstration of the grounds set forth in Public Contract Code Sections 4100 et seq. and 5100 et seq., respectively; (3) accept the project upon its final completion; (4) release retention money withheld consistent with the requirements of Public Contract Code Sections 7107 and 9203; and (5) extend the date and time for the receipt of bids consistent with the requirements of Public Contract Code Section 4104.5.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is for the Board, acting as the governing body of the Los Angeles County Flood Control District, to approve and advertise the project; adopt the plans and specifications; authorize the Chief Engineer of the Los Angeles County Flood Control District or her designee to award and execute a consultant services agreement for the preparation of a baseline construction schedule, a stormwater pollution prevention plan, and a health and safety plan for a fee not to exceed \$15,000, funded by existing project funds; award and execute a construction contract with the responsible contractor with the lowest responsive bid; deliver the project; and delegate certain responsibilities to the Chief Engineer or her designee to carry out this project.

Delegating to the Chief Engineer or her designee the authority to award and execute this construction contract will allow for an expedited contracting process in order to better adhere to the project schedule committed to in the funding agreement with City of Los Angeles Department of Water and Power (LADWP) and in the project schedule committed to in the grant agreement between LADWP and the State Department of Water Resources. Expediting award of the contract will also avoid potential impacts to the project schedule for the Phase II intake improvements, which must be constructed during the non-storm season.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provisions of Operational Effectiveness/Fiscal Sustainability (Goal 1) and Integrated Services Delivery (Goal 3). This action is consistent with these goals as it will maintain a collaborative partnership with a local agency to improve infrastructure and increase water conservation for residents of the County of Los Angeles at no cost to the District.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund.

The estimated construction contract cost to complete this project is in the range of \$12,000,000 to \$17,000,000. The total project cost is estimated to be \$18,400,000. In addition to the construction contract cost, the total project cost includes the preparation of plans and specifications, survey, environmental clearance, right-of-way and utility clearances, inspection, contract administration, change order contingency, and other County of Los Angeles services. Sufficient funds for this project are included in the Flood Control District Fiscal Year 2015-16 Budget.

Per a Memorandum of Agreement between Los Angeles County Flood Control District and LADWP approved by the Board on July 16, 2013, LADWP is funding the total construction and construction management costs of this project.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This project is part of the Department of Public Works' ongoing program for the restoration and alteration of groundwater recharge facilities. It will be advertised in accordance with Section 20991 of the State Public Contract Code.

The LADWP owns the Tujunga Spreading Grounds. The District operates and maintains the Tujunga Spreading Grounds on behalf of the LADWP. The District and the LADWP have executed two previous agreements in July 2009 and July 2013, which provide for the District to develop final design plans and technical specifications, execute construction contracts, and manage the construction of the project.

This project is to be completed in 425 working days. It is anticipated the work will start in November 2015 and be completed in September 2017.

The award of this contract will be in full compliance with Federal, State, and County regulations. The project specifications contain provisions requiring the contractor to comply with terms and conditions supporting the Board's ordinances, policies, and programs including, but not limited to: the County's Greater Avenues for Independence and General Relief Opportunities for Work Programs (GAIN and GROW), Board Policy No. 5.050; Contract Language to Assist in Placement of Displaced County Workers, Board Policy No. 5.110; Reporting of Improper Solicitations, Board Policy No. 5.060; Notice to Contract Employees of Newborn Abandonment Law (Safely Surrendered Baby Law), Board Policy No. 5.135; Contractor Employee Jury Service Program, Los Angeles County Code, Chapter 2.203; Notice to Employees Regarding the Federal Earned Income Credit (Federal Income Tax Law, Internal Revenue Service Notice 1015); Contractor Responsibility and Debarment, Los Angeles County Code, Chapter 2.202; the Los Angeles County's Child Support Compliance Program, Los Angeles County Code, Chapter 2.200; the Los Angeles County's Defaulted Property Tax Reduction Program Ordinance, Los Angeles County Code, Chapter 2.206; and the standard Board-directed clauses that provide for contract termination or renegotiation.

The State Public Contract Code requires the District to award construction contracts to a responsible contractor with the lowest responsive bid, which is defined as the firm that: (1) submits the bid with the lowest cost; (2) is deemed by the District to be responsive to specific criteria under the solicitation including, but not limited to, licensure, bonding, and insurance requirements; and (3) is determined by the District to be a responsible bidder by exhibiting the capability, capacity, experience, trustworthiness, and financial wherewithal to perform the work required under the bid solicitation.

To ensure the contract is awarded to a responsible contractor with a satisfactory history of performance, bidders are required to report violations of the False Claims Act, criminal convictions, civil litigation, defaulted contracts with County, complaints filed with the Contractor's State License Board, labor law/payroll violations, and debarment actions. As provided for in Board Policy No. 5.140, the information reported by the contractor will be considered before making a recommendation to award.

The plans and specifications include the contractual provisions, methods, and material requirements necessary for this project and are on file with Public Works.

Vulcan Materials Company owns an aggregate mining facility known as Boulevard Pit near the Tujunga Spreading Grounds. Construction of the project will require the removal of an estimated 1.25 million cubic yards of excavated material. The enclosed cooperative agreement provides for the District to deliver the excavated material from the Tujunga Spreading Grounds via conveyor belt to the Boulevard Pit facility owned by the Vulcan Materials Company. The cooperative agreement has been previously reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

The LADWP, as lead agency, certified a Final Environmental Impact Report for this Project on June 4, 2013. On July 16, 2013, Agenda Item 28, as a responsible agency per the California Environmental Quality Act, the Board considered the Environmental Impact Report prepared by LADWP for this project, approved the project, and adopted the Mitigation Monitoring and Reporting Plan and the Environmental Findings of Fact and Statement of Overriding Consideration.

CONTRACTING PROCESS

This project will be contracted on an open-competitive bid basis. An award by the Chief Engineer or her designee will be made upon review of the bids meeting the criteria established by the Board and the State Public Contract Code.

To increase contractor awareness of Public Works' program to contract work out to the private sector, this project will be listed on both the County's "Doing Business with Us" and Public Works' "Contract Opportunities" websites for upcoming bids.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

When the project is completed, it will have a positive impact by providing increased groundwater recharge and improved operations at this water conservation facility.

CONCLUSION

Please return one adopted copy of this letter to the Department of Public Works, Construction Division.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gail Farber".

GAIL FARBER

Director

GF:JTS:lg

Enclosures

c: Chief Executive Office (Rochelle Goff)
County Counsel
Executive Office
Internal Services Department (Countywide
Contract Compliance)

**COOPERATIVE AGREEMENT BETWEEN THE
LOS ANGELES COUNTY FLOOD CONTROL DISTRICT AND
VULCAN MATERIALS COMPANY, WEST REGION
REGARDING DELIVERY OF EXCAVATED MATERIAL**

AGREEMENT

This Cooperative Agreement (hereinafter referred to as AGREEMENT) is entered into between the Los Angeles County Flood Control District (hereinafter referred to as DISTRICT) and CalMat Co., DBA Vulcan Materials Company, West Region (hereinafter referred to as VULCAN).

WITNESSETH

WHEREAS, the City of Los Angeles Department of Water and Power (LADWP) has partnered with the DISTRICT to improve the groundwater recharge basins at its Tujunga Spreading Grounds facility (PROJECT); and

WHEREAS, LADWP has hired the DISTRICT to perform construction management services for the PROJECT; and

WHEREAS, the DISTRICT estimates that approximately 1.3 million cubic yards of material will be excavated from the groundwater recharge basins in connection with the PROJECT, over a period of 24 months; and

WHEREAS, VULCAN owns and operates an active aggregates mining facility in Sun Valley known as the Boulevard Pit (BOULEVARD PIT) near the Tujunga Spreading Grounds facility; and

WHEREAS, the DISTRICT will be hiring a contractor to perform the grading and excavation work for the PROJECT and VULCAN will not be involved in the performance of said grading and excavation work; and

WHEREAS, DISTRICT desires to deliver clean, uncontaminated EXCAVATED MATERIAL (as hereinafter defined) to the BOULEVARD PIT, and VULCAN is willing to allow delivery of such EXCAVATED MATERIAL to the BOULEVARD PIT, on the terms and conditions hereinafter set forth in this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by all parties, it is hereby agreed as follows:

(1) DEFINITIONS

The following definitions shall apply to this AGREEMENT, including all exhibits hereto:

- 1.1. The term EXCAVATED MATERIAL shall mean the rocks and earthen material excavated from the Tujunga Spreading Grounds facility in connection with the PROJECT, by DISTRICT or its contractor, estimated to be approximately 1.3 million cubic yards. EXCAVATED MATERIAL shall not contain any organic material.
- 1.2. The term DESIGNATED AREA shall mean the area within BOULEVARD PIT where EXCAVATED MATERIAL will be delivered by DISTRICT or its contractor, depicted in Exhibit A.
- 1.3. The term HAZARDOUS MATERIAL shall mean any hazardous or toxic substance, material, or waste, which is, becomes, or may be hazardous to human health or safety or to the environment, or which is or becomes in the future listed, defined or regulated in any manner by the United States Government, the State of California, or any other governmental or regulatory authority, pursuant to any applicable environmental law, including, without limitation, any material or substance which a) is defined or listed as a hazardous material, toxic pollutant, hazardous waste, hazardous substance, or hazardous pollutant under applicable Federal, State, or local law or administrative code promulgated thereunder, b) contains hydrocarbons of any kind, nature or description, including but not limited to gas, oil, and similar petroleum products, c) contains asbestos, d) contains polychlorinated biphenyls, or e) contains radioactive materials. The term "environmental law(s)" shall mean any and all Federal, State, or local environmental, health and/or safety-related laws, regulations, standards, court decisions, ordinances, rules, codes, judicial or administrative orders or decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future. A partial, nonexclusive list of HAZARDOUS MATERIAL is attached hereto as Exhibit B.

(2) REMOVAL OF EXCAVATED MATERIAL FROM PROJECT

- 2.1. The PROJECT shall commence on or about August 2015. Upon commencement of the PROJECT, DISTRICT or its contractor shall transport and deliver EXCAVATED MATERIAL to the DESIGNATED AREA of BOULEVARD PIT via the DISTRICT'S conveyor belt system substantially similar to the one shown in Exhibit A. The conveyor belt

system shall be equipped by DISTRICT or its contractor with a belt scale that is accessible to both VULCAN and DISTRICT. VULCAN will use the scale to determine quantities of EXCAVATED MATERIAL delivered, for purposes of periodic invoicing. VULCAN will invoice the DISTRICT on the first day of each month for EXCAVATED MATERIAL received by VULCAN during the invoice period. DISTRICT shall pay VULCAN'S invoices within 30 days of date of invoice.

- 2.2. Subject to the provisions of Section 2.13, VULCAN shall accept delivery of the EXCAVATED MATERIAL by the DISTRICT or its contractor to the DESIGNATED AREA.
- 2.3. VULCAN shall not be responsible for any costs associated with loading, transporting, and delivering the EXCAVATED MATERIAL from the Tujunga Spreading Grounds facility to the DESIGNATED AREA.
- 2.4. DISTRICT or its contractor shall conduct its operations for the transport and delivery of the EXCAVATED MATERIAL between 8 to 10 hours per day, 5 to 6 days a week, only between the hours of 6 a.m. to 6 p.m.
- 2.5. The average delivery rate of EXCAVATED MATERIAL to the DESIGNATED AREA by the DISTRICT or its contractor shall be 5,000 to 6,000 tons per day.
- 2.6. DISTRICT or its contractor shall be responsible, at their cost, for obtaining all Air Quality Management District permits and any other permits required in connection with loading, transporting, and delivery of equipment.
- 2.7. DISTRICT or its contractor shall be responsible, at their cost, for complying with all Mine Safety and Health Administration regulations and all other safety requirements, including but not limited to VULCAN'S most current Contractor Safety and Health Requirements Handbook, for all their equipment and employees, and the conduct of their operations located on and occurring within the property boundaries of BOULEVARD PIT.
- 2.8. Subject to the provisions of Sections 2.9 and 2.10, DISTRICT will compensate VULCAN at the rate of \$1.95 per ton (INITIAL RATE) of EXCAVATED MATERIAL delivered to the DESIGNATED AREA. A pre- and post- topographic survey of the spreading grounds will be prepared by the DISTRICT to verify the final quantities of EXCAVATED MATERIAL delivered. However, quantities shall not be final until explicitly approved by VULCAN in writing. VULCAN shall approve or disapprove the quantities as shown by the survey within 15 days of receipt thereof. Any disapproval of the survey by VULCAN shall be based on data that they will provide to the DISTRICT for review. All periodic payments made by the DISTRICT shall be credited to the final sum due to VULCAN as calculated

in accordance with the final quantities shown by the survey approved by VULCAN. DISTRICT shall pay the additional sum due, or VULCAN shall refund the credit due, as applicable, within 30 days of VULCAN'S approval of the survey.

- 2.9. INITIAL RATE provided above shall be adjusted on each yearly anniversary date of this AGREEMENT (Adjustment Date) as follows: The basis for computing each adjustment shall be the Consumer Price Index for Urban Wage Earners and Clerical Workers, Los Angeles-Anaheim-Riverside Area (Base Year 1982-1984 = 100), published by the United States Department of Labor, Bureau of Labor Statistics (CPI), for January 2014 (Beginning CPI). The CPI published for each January 1 thereafter (Adjustment CPI) is to be used in determining the amount of the adjustment. The ADJUSTED RATE for each one year period commencing with an Adjustment Date shall be the result of multiplying \$1.95 by a fraction, the numerator of which is the Adjustment CPI and the denominator of which is the Beginning CPI; provided, however, in no event shall the ADJUSTED RATE be reduced below the INITIAL RATE or the ADJUSTED RATE payable during the immediately preceding period. Should said Bureau discontinue the publication of the CPI, or publish the same less frequently, or alter the same in some other manner, then VULCAN may adopt a substitute index or substitute procedure, acceptable to the DISTRICT, which reasonably reflects and monitors consumer prices.
- 2.10. VULCAN will employ a contractor (Vulcan's Contractor) to handle the EXCAVATED MATERIAL delivered by DISTRICT to the DESIGNATED AREA. Vulcan's Contractor will be paid by VULCAN on a per-ton basis. Fuel deliveries to Vulcan's Contractor will be made directly to the BOULEVARD PIT site. The parties hereto agree that the INITIAL RATE is based upon the price of \$3.30 per gallon, including all taxes and delivery costs, for CARB No. 2 red dye diesel fuel (Fuel) used by equipment handling the EXCAVATED MATERIAL, which shall be the baseline price.

VULCAN'S contract with Vulcan's Contractor will provide that if cost for Fuel, including taxes and delivery, to Vulcan's Contractor at the BOULEVARD PIT site is more than \$3.60 per gallon, VULCAN will pay Vulcan's Contractor an extra \$0.01 per ton for every \$0.10 in extra Fuel cost for each ton of EXCAVATED MATERIAL handled by equipment using that Fuel (Fuel Surcharge). For example (only), if the Fuel cost is \$3.62, the Fuel Surcharge would be an extra \$0.01 per ton; if Fuel cost is \$4.00 the Fuel Surcharge would be an extra \$0.04 per ton.

VULCAN'S contract with Vulcan's Contractor will also provide that if cost for Fuel, including taxes and delivery, to Vulcan's Contractor at the BOULEVARD PIT site is less than \$3.00 per gallon, VULCAN will receive a discount from Vulcan's Contractor of \$0.01 per ton for every \$0.10 in reduced Fuel cost for each ton of EXCAVATED MATERIAL handled by equipment using that Fuel Credit. For example (only) if the Fuel cost is \$2.98, the Fuel Credit would be \$0.01 per ton; if Fuel cost is \$2.70 the Fuel Credit would be \$0.03 per ton.

In addition to the INITIAL RATE, VULCAN will be compensated under this AGREEMENT based on the cost to VULCAN of Fuel as follows:

VULCAN will invoice the DISTRICT monthly in an amount equal to the Fuel Surcharge, if any, paid by VULCAN during the period of time covered by the invoice, or, in the event VULCAN receives a Fuel Credit, VULCAN will issue a credit notice to the DISTRICT in an amount equal to the Fuel Credit received by VULCAN during the period of time covered by the notice. There shall be no Fuel Surcharge or Fuel Credit if VULCAN'S cost of Fuel is between \$3.00 and \$3.60 per gallon. Invoices for the Fuel Surcharge shall be paid within 30 days of date of invoice; any Fuel Credit shall be applied within 30 days of notice.

- 2.11. The soil density to be used to convert cubic yards to tons shall be 1.5 tons per cubic yard.
- 2.12. VULCAN may inspect and test all EXCAVATED MATERIAL stockpiled in Tujunga Spreading Grounds facility prior to delivery of the EXCAVATED MATERIAL to the DESIGNATED AREA by the DISTRICT. Inspection and testing shall be conducted by VULCAN at no cost to the DISTRICT, and shall be for VULCAN'S benefit only. Inspection or testing by VULCAN shall not be deemed acceptance or approval by VULCAN of the EXCAVATED MATERIAL. Acceptance of delivery of the EXCAVATED MATERIAL shall be subject to the provision of Section 2.13 of this AGREEMENT.
- 2.13. DISTRICT represents and warrants that all EXCAVATED MATERIAL shall be free from any HAZARDOUS MATERIAL. If any EXCAVATED MATERIAL is found to contain HAZARDOUS MATERIAL or otherwise be in breach of DISTRICT'S representations and warranties, DISTRICT shall promptly remove such EXCAVATED MATERIAL from the BOULEVARD PIT and also remove any resulting contamination from the BOULEVARD PIT, and lawfully dispose of such EXCAVATED MATERIAL. DISTRICT shall indemnify and reimburse VULCAN for all cost and expenses incurred by VULCAN related to the presence of HAZARDOUS MATERIAL in the EXCAVATED MATERIAL, including consultant and laboratory costs, and the DISTRICT shall bear all costs and expenses of such removal and

disposal, which shall be performed in accordance with all applicable laws, rules and regulations, and DISTRICT, not VULCAN, shall be deemed the generator of all EXCAVATED MATERIAL removed and disposed. The warranties, representations, agreements, and indemnities of the DISTRICT set forth herein shall survive the expiration or termination of this AGREEMENT, and shall survive until such time as actions against VULCAN and its parents, subsidiaries, and affiliates related to EXCAVATED MATERIAL delivered to the BOULEVARD PIT shall have been barred by applicable statutes of limitations.

- 2.14. Upon the completion or earlier termination of the excavation operations in connection with the PROJECT, the DISTRICT shall provide written notice thereof to VULCAN.
- 2.15. At all times during the term of the AGREEMENT, the DISTRICT shall, at DISTRICT'S sole cost, keep the portion of the BOULEVARD PIT occupied by the DISTRICT or its equipment clean and free from rubbish and waste. DISTRICT shall also abate dust by sprinkling, or other means as necessary. Prior to the termination date of this AGREEMENT, DISTRICT will remove from the BOULEVARD PIT all of DISTRICT'S rubbish, waste, personal property, and equipment. DISTRICT shall leave the BOULEVARD PIT in a neat and clean condition and in the same condition as it was in prior to the commencement of this AGREEMENT, reasonable wear and tear excepted.

(3) GENERAL TERMS AND PROVISIONS

- 3.1. This AGREEMENT shall be effective on the date it is executed by all parties, and shall expire four years after execution, unless extended or sooner terminated by mutual written agreement by all parties.
- 3.2. Insurance: DISTRICT shall require its contractors that perform work delivering EXCAVATED MATERIAL to the DESIGNATED AREA or who may otherwise enter onto the BOULEVARD PIT property to take out and maintain liability and other insurance and such other insurance in conformance with the insurance requirements set forth in the form of agreement attached hereto as Exhibit C.
- 3.3. Indemnification
 - 3.3.1. VULCAN shall indemnify, defend, and hold harmless the DISTRICT, and its Board, officers, agents, and employees (collectively District Indemnitees) from and against any and all suits and causes of action, claims, charges, actions, damages, demands, losses, liabilities, costs and expenses, including, without limitation, involving bodily injury, death or personal injury of any

person or property damage of any nature whatsoever, including reasonable attorneys' fees and expenses, which arise in whole or in part from, out of, or in connection with any act or omission of VULCAN or its contractors or agents in the performance of work undertaken pursuant to this AGREEMENT. VULCAN'S duties and obligations under this Section shall include claims arising out of, or caused by the passive negligence of the District Indemnitees but shall not apply to the extent that any claim arises out of the active negligence or willful misconduct of the District Indemnitees, or defects in design furnished by the District Indemnitees, or to the extent that the claim does not arise out of the work of VULCAN, its employees, subcontractor, or agents. Payment shall not be a condition precedent to recovery under the foregoing indemnity. The provisions of this Section shall survive the expiration or termination of this AGREEMENT, and shall survive until such time as actions against the District Indemnitees on account of any claim shall have been barred by applicable statutes of limitations.

- 3.3.2. DISTRICT shall indemnify, defend and hold harmless VULCAN, and its parents, subsidiaries, and affiliates, and their respective officers, directors, agents and employees (collectively Vulcan Indemnitees) from and against any and all suits and causes of action, claims, charges, actions, damages, demands, losses, liabilities, costs and expenses, including, without limitation, involving bodily injury, death or personal injury of any person or property damage of any nature whatsoever, including reasonable attorneys' fees and expenses, which arise in whole or in part from, out of, or in connection with any act or omission of DISTRICT or its contractors or agents in the performance of work undertaken pursuant to this AGREEMENT. DISTRICT'S duties and obligations under this Section shall include claims arising out of, or caused by the passive negligence of the Vulcan Indemnitees but shall not apply to the extent that any claim arises out of the active negligence or willful misconduct of the Vulcan Indemnitees, or defects in design furnished by the Vulcan Indemnitees, or to the extent that the claim does not arise out of the work of DISTRICT, its employees, subcontractor, or agents. Payment shall not be a condition precedent to recovery under the foregoing indemnity. The provisions of this Section shall survive the expiration or termination of this AGREEMENT, and shall survive until such time as actions against the Vulcan Indemnitees on account of any claim shall have been barred by applicable statutes of limitations.

3.3.3. Without limiting DISTRICT'S responsibilities regarding its contractors and agents, prior to its entry on to the BOULEVARD PIT property, and as a condition to such entry, DISTRICT'S contractor(s) shall execute and deliver to VULCAN, 1) an agreement in the form attached hereto as Exhibit C, and 2) the evidence of insurance required thereby.

3.4. Notices

3.4.1. All notices provided under this AGREEMENT must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date either: 1) personally delivered to the address indicated below, including but not limited to confirmed delivery by FedEx, UPS, or similar third party express delivery service; or 2) on the third business day following deposit, postage prepaid, using certified mail, return receipt requested, in any United States Postal mailbox or at any United States Post Office; or 3) on the date of transmission by facsimile to the facsimile number provided below.

3.4.2. All notices, demands, or requests made in connection with this AGREEMENT shall be addressed to the following:

VULCAN: Mr. Gary Goellner
Regional Operational Manager
Vulcan Materials Company, West Region
11401 Tuxford Street
Sun Valley, CA 91352
Fax: (818) 768-4273

DISTRICT: Mr. Christopher Stone
Assistant Deputy Director
Los Angeles County Flood Control District
Water Resources Division
P.O. Box 1460
Alhambra, CA 91802-1460
Fax: (626) 979-5309

-or-

Street Address for Express Delivery:
900 South Fremont Avenue
Alhambra, CA 91803

IN WITNESS WHEREOF, each party hereto has caused this AGREEMENT to be executed by their duly authorized representative.

LOS ANGELES COUNTY
FLOOD CONTROL DISTRICT,
a body corporate and politic

By _____
Chief Engineer

Date _____

APPROVED AS TO FORM:

MARY WICKHAM
Interim County Counsel

By: Carole Suzuki
Deputy

CALMAT CO. DBA
VULCAN MATERIALS COMPANY,
WEST REGION

By Gary Goellner

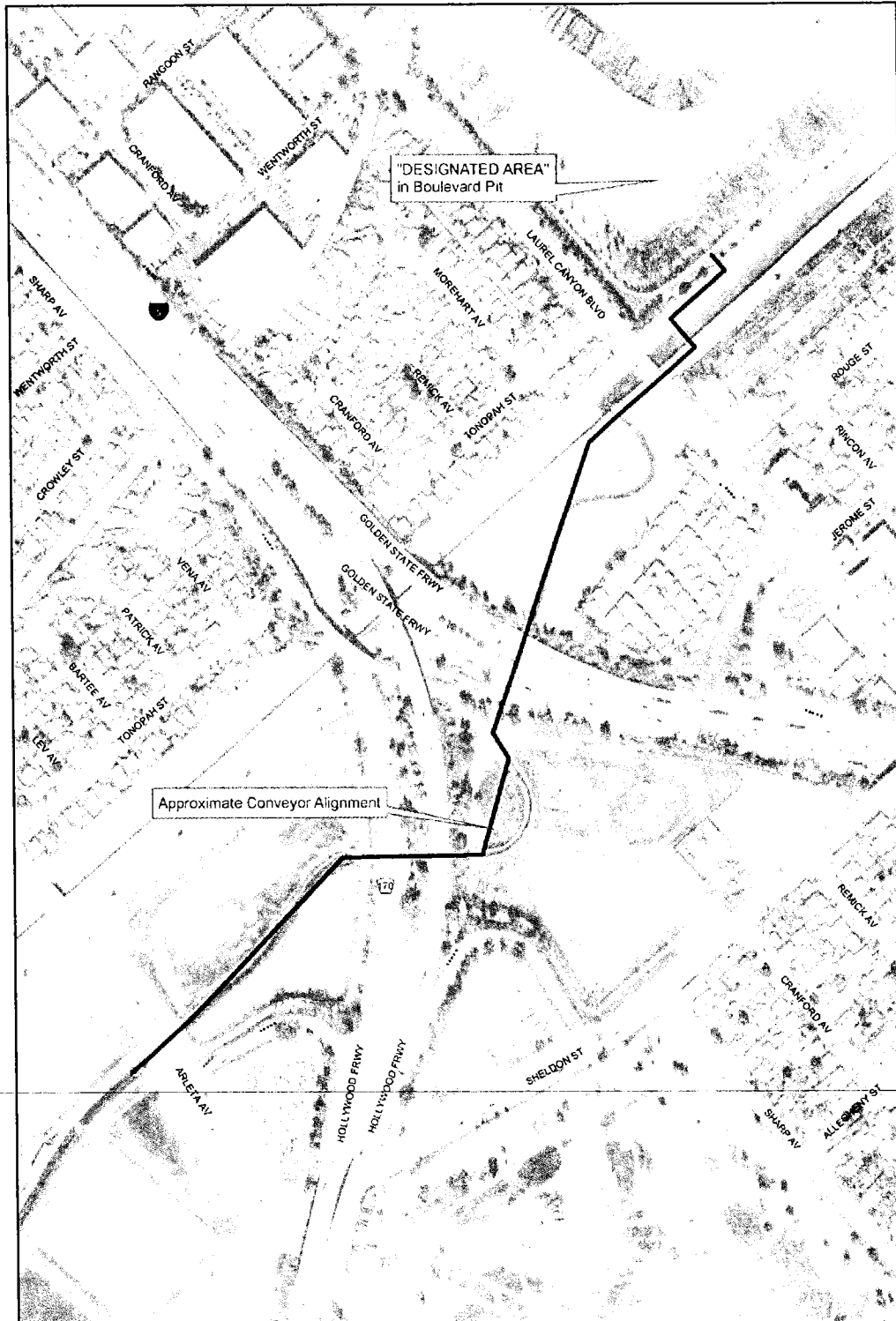
Name GARY GOELLNER

Title Operational Manager

Date 12-11-14



EXHIBIT A - Map of "DESIGNATED AREA" and Approximate Conveyor Alignment



Data collected by the City of Los Angeles, California, and the City of Los Angeles, California. Data is not for use in any other project.



Data collected by the City of Los Angeles, California, and the City of Los Angeles, California. Data is not for use in any other project.

Exhibit B – Examples of HAZARDOUS MATERIAL

Asbestos	Miscellaneous Plastic Pieces
Liquid Wastes	Gypsum Board
Tires	Styrofoam
Liquid Paint Containers	Materials Containing Asbestos
Aerosol Paint Containers	Asphalt Roof Shingles
Motor Oil Containers	Foam Rubber
Roofing Cement Containers	Fiberglass
Cloth	Antifreeze Containers
Cardboard	Carpets and Rugs
Plywood	Municipal Household Waste
Tree Branches, Roots, Leaves	Rubber Products
Auto Parts, Air and Oil Filters	Duct Tape
Roofing Tar Containers	Oil Soaked Soil or Debris
Lumber	PVC Pipe
Wood Pallets	Felt Tar Paper
Paper	Metal and Plastic Drums
Plastic Containers	Petroleum Contaminated Soil
Plastic Straps and Packaging	Asphalt Paving Materials

EXHIBIT C

VULCAN MATERIALS COMPANY WEST REGION

INSURANCE AND INDEMNIFICATION AGREEMENT

This Insurance and Indemnification Agreement (the "Agreement") is made and entered into as of _____, 2014, by and between _____ ("Contractor") and CalMat Co., dba Vulcan Materials Company, West Region its parents, subsidiaries, partners and affiliates ("Vulcan"). For valuable consideration receipt of which is hereby acknowledged, and in consideration of Contractor being granted entry upon Vulcan's site commonly known as the Boulevard Pit in Sun Valley, California (hereinafter, the "Premises") Contractor and Vulcan hereby agree as follows:

1. Indemnity.

a. To the fullest extent permitted by law, Contractor shall release, indemnify, defend and hold harmless Vulcan, its parents, subsidiaries, affiliates and contractors, and their respective officers, directors, attorneys, agents and employees (collectively, the "Indemnified Parties"), for, from and against any and all claims, actions, damages, demands, losses, liabilities, costs and expenses, of every nature and character, including but not limited to payments made in settlement thereof and reasonable attorneys' fees and expenses, which arise in whole or in part from, out of, or in connection with: (a) Contractor's entry onto, use or occupancy of the Premises; (b) any act or omission of Contractor, its employees, subcontractors, or agents in the performance of work, or while at the Premises; (c) Contractor's failure to observe and follow any applicable safety rules or regulations; and (d) Contractor's breach of any provision in this Agreement (each a "Claim" and collectively "Claims"). Contractors' duties and obligations under this Section shall include Claims arising out of, or caused by, the passive negligence of the Indemnified Parties but shall not apply to the extent that any Claim arises out of the active negligence or willful misconduct of the Indemnified Parties, or defects in design furnished by the Indemnified Parties, or to the extent that the Claim does not arise out of the work of Contractor, its employees, subcontractor, or agents. Payment shall not be a condition precedent to recovery under the foregoing indemnity.

b. In the event the Indemnified Parties, or any of them, are made party to any litigation arising from a Claim, Contractor shall defend the Indemnified Parties with attorneys reasonably acceptable to Vulcan, and pay all reasonable costs, expenses, expert fees and attorneys' fees incurred by or on behalf of the Indemnified Parties in connection therewith.

c. Contractor's obligations hereunder shall not be limited by the provisions of worker's compensation laws or by the existence of any insurance. The rights and remedies provided for under this Section shall be in addition to and cumulative of all other remedies available to the Indemnified Parties. Notwithstanding the expiration or termination of this Agreement, the provisions of this Section shall survive until such time as actions against the Indemnified Parties on account of any Claim shall have been barred by applicable statutes of limitations.

2. Workers' Compensation. Contractor shall provide all statutory Workers' Compensation Insurance coverage required in the state or states where contract services are to be performed. Such insurance shall contain an endorsement waiving subrogation against Vulcan.

3. Insurance.

a. Contractor shall obtain and maintain liability insurance and such other insurance under policies with the following minimum requirements: (i) Employer's Liability Insurance with limits of not less than \$1,000,000 and an endorsement waiving subrogation against Vulcan; (ii) Automobile Public Liability Insurance covering any auto, with limits of not less than \$2,000,000, combined single limit per occurrence; and (iii) Commercial General Liability Insurance including products-completed operations, and personal injury, covering operations to be performed on or related to the Premises, with limits of not less than \$2,000,000, per occurrence.

b. Prior to entering upon the Premises, Contractor shall furnish certificates of insurance, in forms reasonably satisfactory to Vulcan, evidencing that the foregoing insurance coverage is in effect. Such certificates shall contain (i) a statement by the insurer that it will give Vulcan written notice at least ten (10) days prior to any termination or material change of any of the insurance required by this Agreement in accordance with the provisions of ACORD 25, (ii) endorsements for products/completed operations and for contractual liability assumed under this Agreement, (iii) certification that Vulcan Materials Company, West Region, and its parents, subsidiaries, affiliates, and their respective officers, directors, agents and employees, are additional insureds under the coverage set forth in (a)(ii) and (a)(iii) above to the same extent as the named insured, with Contractor's insurance being primary insurance and not contributory in any way with insurance or self-insurance maintained by the additional insureds, and (iv) a severability of interest provision allowing Vulcan and the other additional insureds to recover on a claim covered by the policy notwithstanding that they are additional insureds.

4. Safety and Health – Representations and Warranties. With respect to the performance of any work and Contractor's activities and the activities of Contractor's employees on the Premises, Contractor represents and warrants that Contractor shall:

- Adopt whatever measures may be necessary to assure compliance with any applicable statutes or regulations or with any relevant governmental agencies, including, but not limited to the Occupational Safety and Health Act of 1970 (29 U.S.C. Section 651, et seq.) and the Federal Mine Safety and Health Act of 1977, as amended and OSHA and MSHA;
- Keep and maintain a written safety and health program for Contractor's employees;
- Attend Vulcan's safety training program, including Vulcan's site-specific hazard training pursuant to 30 C.F.R Part 46, if applicable;
- Comply with MSHA's Title 30 CFR Section 56.2001, "Intoxicating Beverages and Narcotics," which prohibits the presence or use of intoxicating beverages and

narcotics in or around mines and prohibits the presence of anyone under the influence of alcohol or narcotics at a mine site;

- Comply with the Federal Drug-Free Workplace Act, refrain from engaging in the unlawful distribution, dispensation, possession or use of a controlled substance at any time while performing any work for Vulcan; and
- Comply with the directives contained in Vulcan's most current Contractor Safety and Health Requirements Handbook.

Contractor shall also require that all of Contractor's employees and subcontractors comply with each of the foregoing.

5. Environmental. Contractor covenants that it shall observe such standards of operation and conduct as are necessary to prevent the release of air, soil and surface or subsurface contaminants and that it shall remove from the Premises any waste resulting from its operations and remediate any contamination resulting from its operations. Contractor shall indemnify, defend and hold Vulcan harmless from and against any claims, including fines, penalties or costs (including attorneys' fees), relating to violations of environmental laws or regulations by Contractor or its subcontractors.

6. Interpretation. Time is of the essence of this Agreement. Paragraph headings do not limit or add to the provisions of this Agreement; on the contrary, they are to be disregarded upon any interpretation thereof. The language in all parts of this Agreement shall be in all cases construed according to its fair meaning, and not strictly for or against Contractor or Vulcan. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby; provided, however, this Agreement can be reasonably and equitably continued with the remaining provisions only. Unless the context of this Agreement clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine and neuter genders shall each be deemed to include the others; and (c) "or" is not exclusive. Contractor acknowledges that Contractor is retained as a contractor to the Los Angeles County Flood Control District, not Vulcan.

7. Entire Agreement. This Agreement supersedes and takes precedence over any and all other agreements regarding the matters contained herein between Contractor and Vulcan, including but not limited to agreements regarding indemnification signed by Contractor at local Vulcan plant sites after the date of this Agreement.

8. EEO Statement. The Contractor and its subcontractors agree to comply with all applicable rules, regulations and relevant orders issued pursuant to Title VII of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans Readjustment Assistance Act, and Executive Order 11246.

9. Term and Expiration. This Agreement shall remain in full force and affect for the duration of the term of that certain Cooperative Agreement between the Los Angeles County Flood Control District and Vulcan Materials Company, West Region Regarding Delivery of Excavated Material ("MOU"). Contractor shall vacate the Premises and remove all of Contractor's equipment and personal property prior to the expiration or termination of the MOU.

Contractor and Vulcan have executed this Agreement, or has caused this Agreement to be executed by their respective duly authorized representatives, as of the date first mentioned above

VULCAN:

CONTRACTOR:

CalMat Co., dba Vulcan Materials Company,
West Region

[Name of Contractor]

By: *Sary Soellner*
Its: *Operational Manager*

By: _____
Its: _____

MSHA I.D. # (if applicable): _____

Address: _____

